

§ 14-16-4-7 INSPECTORIAL SEARCHES.

(A) **Definition.** As used in this section, INSPECTORIAL SEARCH means an entry into and examination of premises or vehicles, for the purpose of ascertaining the existence or nonexistence of violations of the Zoning Code.

(B) **Inspectorial Searches by Consent.**

- (1) Within the scope of his authority, the Zoning Enforcement Officer or his authorized zoning inspectors may conduct an inspectorial search, with the voluntary consent of an occupant or custodian of the premises or vehicles to be inspected, who reasonably appears to the Zoning Enforcement Officer or his inspector to be in control of the places to be inspected or otherwise authorized to give such consent.
- (2) Before requesting consent for an inspectorial search, the Zoning Enforcement Officer or his inspector shall inform the person to whom the request is directed of the authority under and purposes for which the inspection is to be made and shall, upon demand, exhibit an identification card or document evidencing his authority to make such inspections.
- (3) Inspections undertaken pursuant to this section shall be carried out with due regard for the convenience and privacy of the occupants, and during the daytime unless, because of the nature of the premises, the convenience of the occupants, the nature of the possible violation or other circumstances, there is a reasonable basis for carrying out the inspection at night.
- (4) Unless advance notice would be likely to cause the suspected violation to be temporarily eliminated so as to frustrate enforcement, notice of the purpose and approximate time of an inspectorial search of an area not open to the general public shall be sent to the occupants or custodians of premises or vehicles to be inspected not less than seven days before the inspection is undertaken.

(C) **Inspectorial Searches without Consent.**

- (1) Upon sufficient showing that required consent to an inspectorial search has been refused or is otherwise unobtainable within a reasonable period of time, the Zoning Enforcement Officer may make application for an inspection order/search warrant. Such application shall be made to a district court having jurisdiction over the premises or vehicle to be search. Such application shall set forth:
 - (a) The particular vehicle(s), premises, or portion thereof sought to be inspected;
 - (b) That the owner or occupant of the premises or vehicle(s), has refused entry;
 - (c) That inspection of the premises or vehicle(s) is necessary to determine whether they comply with the requirements of this Zoning Code;
 - (d) Any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the premises or vehicle(s) which constitutes a violation of this Zoning Code; and
 - (e) That the Zoning Enforcement Officer or his inspector is authorized by the city to make the inspection.
- (2) The application shall be granted and the inspection order/search warrant issued upon a sufficient showing that inspection in the area in which the premises or vehicles in question

- are located, or inspection of the particular premises or vehicles, is in accordance with reasonable legislative or administrative standards, and that the circumstances of the particular inspection for which application is made are otherwise reasonable. The district court shall make and keep a record of the proceedings on the application, and enter thereon its finding in accordance with the requirements of this section.
- (3) The Zoning Enforcement Officer or inspector executing the inspection order/search warrant shall, if the premises or vehicle in question are unoccupied at the time of execution, be authorized to use such force as is reasonably necessary to effect entry and make the inspection.
 - (4) The Zoning Enforcement Officer or inspector conducting the search shall, if authorized by the district court on proper showing, be accompanied by one or more law enforcement officers authorized to serve search warrants who shall assist the Zoning Enforcement Officer or inspector in executing the order at his direction.
 - (5) After execution of the order or after unsuccessful efforts to execute the order, as the case may be, the Zoning Enforcement Officer shall return the order to the district court with a sworn report of the circumstances of execution or failure thereof.

('74 Code, § 7-14-46A.3)